IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

COMPANY PETITION NO. 795 OF 2003.

Neo Dye-Chem Corporation ... Petitioner.

V/s.

Chemstar Organics (I)Ltd. ... Respondents.

Shri Ajay Panicker for the Petitioner.

Shri J.Mitra i/b Seema Sharma for the respondents.

CORAM : S.U.KAMDAR,J

DATE: FEBRUARY 18, 2005.

P.C. :

1. Present petition is filed for recovery of the sum of around Rs.50 Lakhs alongwith interest on the delayed payment as well as outstanding bills. Claim of Rs. 88,817/- is also made on the basis of debit note in respect of the freight charges. The learned counsel for the petitioner in support of his claim relies upon letter dated 17th September, 1997, 9th December, 1999 and 12th February, 2001 and contends that there is admitted liability and company has admitted the said claims. The aforesaid three letters does not state the exact amount of liability which has been admitted by the company.

2. On the other hand, the learned counsel for respondent has pointed out paragraph-12 of the petition in which it is interalia pointed out even after 12th February, 2001, claim raised by the petitioner in the present petition also includes amounts of bills raised by third parties against materials supplied by them. It is contended that the bills are raised by third parties against materials supplied by them. Since the relevant contracts are between the actual supplier and the respondent company, petitioners have no right to claim the same as their own. The learned counsel for the respondent company has also contended that large number of payments are made subsequent to the letter dated 12th February, 2001 and there is only due and payable amount of Rs.19,600/- by the respondent company to the petitioner. It has also been further contended that the balance claim of the petitioner is not valid because the claim of the third party are raised by the petitioner. In view of this, I find that there are bonafide disputes in the present petition. Petition is accordingly dismissed. There shall be no order as to costs.

3. In so far as admitted liability of Rs.19,600/- is concerned, the learned counsel for the respondent states that the same will be paid within two weeks from today to the petitioner.